

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 1565 - SB 1791

March 10, 2014

SUMMARY OF BILL: Adds any material, compound, mixture, or preparation which contains any quantity of ephedrine or pseudoephedrine to the list of Schedule III controlled substances.

Requires a prescription to obtain any product that contains a methamphetamine precursor in a form that can be used in the manufacture of methamphetamine, unless the product is exempt by the Board of Pharmacy and the Tennessee Bureau of Investigation (TBI).

Adds gel capsules and liquid preparations to the list of exempted products that contain a methamphetamine precursor. Defines “gel capsule” as any soft gelatin liquid-filled capsule that contains a liquid suspension, that, in the case of pseudoephedrine, is suspended in a matrix of glycerin, polyethylene glycol, and propylene glycol, along with other liquid substances, but does not include a gelatin covered solid.

Prohibits any protocol or procedure mandated by an individual or corporate entity from interfering with a pharmacist’s duty to counsel and evaluate a patient and decide whether or not to dispense medication.

Establishes immunity for pharmacists that approve a sale of a nonexempt product that is subsequently used by the patient for an unlawful purpose if the pharmacist followed the statutory requirements. Establishes immunity for a pharmacist that refuses to sell a nonexempt product even if it is later determined that the person did not intend to unlawfully use the product.

Requires nonexempt products containing any immediate methamphetamine precursor to be taxed as they were prior to June 30, 2014—subject to sales and use tax.

Prohibits individual or group health insurance plans from covering or paying for nonexempt products containing any immediate methamphetamine precursor.

Authorizes a pharmacist to dispense an immediate methamphetamine precursor pursuant to a valid prescription, but it may not exceed a fifteen-day supply of the product for a daily dosage of 240 milligrams.

ESTIMATED FISCAL IMPACT:

On February 25, 2014, a fiscal note was issued estimating a fiscal impact as follows:

Other Fiscal Impact – The fiscal impact of the proposed legislation cannot be reasonably quantified due to multiple indeterminable variables.

Due to additional information received from the Department of Health, this impact was in error. The estimated impact is:

(CORRECTED)

Increase State Expenditures – \$50,000/One-Time/Board of Pharmacy

Other Fiscal Impact – The one-time increase in expenditures of \$50,000 will be covered through current Board of Pharmacy fee revenue. As of June 30, 2013, the Board had a cumulative reserve balance of \$1,226,220.

The proposed legislation could impact sales and use tax revenue, but the impact cannot be reasonably quantified due to multiple indeterminable variables.

Assumptions:

- According to the Department of Correction and local law enforcement agencies, the proposed legislation will not significantly impact state or local incarceration costs.
- Under the proposed legislation, pseudoephedrine medications—e.g., Zyrtec D, Clarinex D, Mucinex D, Bronch-eze, Bronkaid—may only be purchased with a valid prescription, and will only be able to get a 15-day supply per prescription.
- Some individuals may continue to get a prescription from their doctors twice a month. Other individuals may switch medications to avoid getting a prescription, or they may choose not to take any medication.
- There are too many speculative factors to estimate any increase or reduction in sales and use tax revenues.
- If the proposed legislation is successful, it will result in fewer methamphetamine labs in Tennessee. Fewer meth labs will result in a reduction of expenditures for clean-up costs.
- Due to multiple unknown variables, including the fluctuations in sales and use tax, the time period in which any fluctuation may occur, the decrease in methamphetamine labs and the extent in which any decrease may occur, any impact to the State or local governments cannot be reasonably determined.
- Currently, pharmacists cannot prescribe controlled substances. The proposed legislation authorizes pharmacists to prescribe immediate amphetamine precursors. The DEA will have to issue pharmacists registration numbers.
- If the DEA issues the numbers, the numbers will have to be entered into the Controlled Substance Monitoring Database. This will cost \$50,000 one-time in programming.

- The programming costs are covered by the Board of Pharmacy, which is funded by licensing fees from professionals that prescribe or dispense controlled substances.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. The Board of Pharmacy had balances of \$929,407 in FY11-12 and \$296,813 in FY12-13 with a cumulative balance of \$1,226,220 as of June 30, 2013.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm